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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

[redacted]

JUL 02 2003

FILE: [redacted] Office: BOSTON, MASS Date:

IN RE: Applicant: [redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

[redacted]

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

JUL0203_02H2212

DISCUSSION: The waiver application was denied by the District Director, Boston, Massachusetts, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of the Dominican Republic, who married [redacted] a United States (U.S.) citizen, on November 22, 1991, in Puerto Rico. The applicant was lawfully admitted to the United States on December 8, 1992. The applicant moved to the mainland United States in the spring of 1993 to seek employment while his wife remained in Puerto Rico. The applicant filed a Petition to Remove Conditions of his Residence (Form I-751) on which his sister signed his wife's name. The applicant was thus found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having attempted to procure an immigration benefit through fraud or a willful material misrepresentation in March 1995. The applicant divorced [redacted] on February 9, 1996. He married [redacted] a U.S. citizen and he is the beneficiary of a petition for alien relative. The applicant seeks a waiver of inadmissibility in order to remain in the United States with his wife.

The district director found that the applicant failed to establish his wife would suffer extreme hardship if he were removed from the United States. The application was denied accordingly.

On appeal, the applicant, through counsel, asserts that the applicant's wife (Mrs. [redacted] will suffer extreme mental hardship if the applicant is removed from the United States. In support of his assertion, counsel submitted two medical letters indicating that Mrs. [redacted] is under stress due to the possibility of her husband's removal from the United States.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

> (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) of the Act provides that:

> (1) The Attorney General may, in the discretion of the Attorney General, waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

Although the applicant asserts that his first wife allowed his sister to sign her signature on the I-751 petition, this assertion is not supported by the evidence. The record reflects that [redacted] was not present at the applicant's immigration interview and that the applicant informed an immigration officer, under oath at the interview, that his sister signed Mrs. [redacted] signature because Mrs. [redacted] would not cooperate with him. Moreover, upon submission of his I-751 petition, the applicant certified under penalty of perjury that the evidence submitted in the petition was all true and correct. The subsequent affidavits submitted by the applicant indicating that the Mrs. [redacted] gave the applicant permission to sign her signature fail to overcome the above mentioned evidence in the record. This office therefore finds that the applicant is clearly inadmissible pursuant to section 212(a)(6)(C)(i) of the Act.

A section 212(i) waiver of the bar to admission resulting from section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship to the citizen or lawfully resident spouse or parent. *See Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996). Congress specifically did not mention extreme hardship to a U.S. citizen or resident child, thus assertions regarding extreme hardship to the applicant's U.S. citizen child will not be considered.

Matter of Cervantes-Gonzalez, 22 I&N Dec. 560 (BIA 1999) provided a list of factors the BIA deemed relevant in determining whether an alien has established extreme hardship pursuant to section 212(i) of the Act. These factors included the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative's family ties outside the United States; the conditions in the country or countries to which the qualifying relative would relocate and the extent of the qualifying relative's ties in such countries; the financial impact of departure from this country; and significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate.

Counsel asserts that the applicant's wife (Mrs. [redacted] will suffer extreme mental hardship if the applicant is removed from the United States. Counsel submitted a one-paragraph letter from [redacted] M.A., LCSW, dated May 12, 1998. The letter stated that Mrs. [redacted] had been seen at the office since May 5, 1998, and that she was diagnosed with "Major Depressive Episode, Severe without Psychotic Symptoms and Anxiety". The letter further stated that Mrs. [redacted] main stressor was the potential deportation of her husband. Mrs. [redacted] was prescribed Prozac and Lorazepan.

Counsel submitted a second one-paragraph letter dated May 12, 1998, from [redacted] MSN, APRN / Director of Nursing at the Fair Haven Community Health Center. The letter stated that Mrs. [redacted] was undergoing counseling and that she

was on antidepressant medication due to the stress of her husband's possible deportation.

The one paragraph medical letters submitted by counsel lack probative value. The letters are general and fail to define the specific condition that Mrs. [redacted] purportedly suffers from. The letters additionally fail to provide information regarding Mrs. [redacted] medical history with the medical institutions or the effect of their treatment. Furthermore, the letters do not discuss how the medical conclusions are reached or the basis of the authors' expertise on depression.

Counsel has failed to establish that the hardship Mrs. [redacted] would suffer goes beyond that normally suffered when an alien is removed from the United States. U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991). For example, *Matter of Pilch*, 21 I&N Dec. 627 (BIA) 1996), held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In addition, *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), held that the common results of deportation are insufficient to prove extreme hardship and defined "extreme hardship" as hardship that was unusual or beyond that which would normally be expected upon deportation. *Hassan v. INS, supra,* held further that the uprooting of family and separation from friends does not necessarily amount to extreme hardship but rather represents the type of inconvenience and hardship experienced by the families of most aliens being deported.

The U.S. Supreme Court additionally held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship. Counsel thus failed to establish that Mrs. [redacted] would suffer extreme hardship based on financial reasons if the applicant were removed from the United States.

A review of the documentation in the record, when considered in its totality reflects that the applicant has failed to show that his U.S. citizen spouse would suffer extreme hardship if he were removed from the United States. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether the applicant merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.

[redacted]